

AMENDED IN ASSEMBLY MAY 1, 1997  
AMENDED IN ASSEMBLY APRIL 16, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 856**

**Introduced by Assembly Member Hertzberg**

February 27, 1997

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An act to add Title 7 (commencing with Section 14000) to Part 4 of the Penal Code, relating to crime prevention, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 856, as amended, Hertzberg. Crime prevention: Witness Protection Program.

Existing law prohibits intimidation of witnesses and establishes a Victim-Witness Assistance Fund as well as local assistance centers for victims and witnesses.

This bill would establish the Witness Protection Program and require that the program be administered by the Attorney General to provide for the relocation or other protection of a witness in a criminal proceeding where there is credible evidence, as defined, of substantial danger that the witness may suffer retaliatory violence or oppression. The Attorney General would be authorized to enter into an agreement with the witness in accordance with specified terms. ~~The bill would make it a felony for any person to knowingly and willfully make an unauthorized disclosure of pertinent information relating to a protected witness. By~~

~~creating a new crime, this bill would impose a state-mandated local program.~~

The bill would appropriate \$149,000 from the General Fund to the Attorney General to implement the program.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: yes. Fiscal committee: yes. State-mandated local program: ~~yes~~ *no*.

*The people of the State of California do enact as follows:*

1 SECTION 1. Title 7 (commencing with Section  
2 14000) is added to Part 4 of the Penal Code, to read:

3

4 TITLE 7. WITNESS PROTECTION PROGRAM

5

6 14000. There is hereby established the Witness  
7 Protection Program.

8 14001. As used in this chapter:

9 (a) "Witness" means any person who has been  
10 summoned, or is reasonably expected to be summoned,  
11 to testify in a criminal matter, including grand jury  
12 proceedings, for either the people or the defense,  
13 whether or not formal legal proceedings have been filed.  
14 Active or passive participation in the criminal matter  
15 does not disqualify an individual from being a witness.  
16 "Witness" may also apply to family, friends, or associates  
17 of the witness who are deemed by the Attorney General  
18 to be endangered.

19 (b) "Credible evidence" means documentation  
20 leading a reasonable person to believe that substantial  
21 reliability should be attached to the evidence.

22 (c) "Protection" means formal admission into a  
23 witness protection program established by this chapter  
24 memorialized by a written agreement between the  
25 Attorney General and the witness.



1 14002. The program shall be administered by the  
2 Attorney General. In any criminal proceeding within this  
3 state, whether the action is brought by state or local  
4 prosecutors, where credible evidence exists of substantial  
5 danger that a witness may suffer retaliatory violence or  
6 oppression, the Attorney General shall provide for the  
7 relocation or other protection of a witness, as reasonably  
8 requested by the investigative agency in that proceeding.

9 14003. The Attorney General shall give priority to  
10 matters involving organized crime, gang activities, drug  
11 trafficking, and cases involving a high degree of risk to the  
12 witness. Special regard shall also be given to the elderly,  
13 the young, battered, victims of domestic violence, the  
14 infirm, the handicapped, and hate incidents.

15 14004. The Attorney General shall take whatever  
16 action he or she determines to be necessary to protect a  
17 witness from bodily injury and otherwise to assure the  
18 health, safety, and welfare of the witness, including the  
19 psychological well-being and the social adjustment of the  
20 witness, for as long as the Attorney General determines  
21 that the danger to the witness exists. The Attorney  
22 General may provide the witness with any of the  
23 following:

24 (a) Armed protection or escort by law enforcement  
25 officials or security personnel before, during, or  
26 subsequent to, legal proceedings.

27 (b) Physical relocation to an alternate residence.

28 (c) Housing expense.

29 (d) Appropriate documents to establish a new  
30 identity.

31 (e) Transportation or storage of personal possessions.

32 (f) Basic living expenses, including, but not limited to,  
33 food, transportation, utility costs, and health care.

34 (g) Appointment of legal counsel.

35 (h) Psychological counseling.

36 (i) Other services as needed.

37 14005. The witness protection agreement shall be in  
38 writing, and shall specify the responsibilities of the  
39 protected person that establish the conditions for the

1 Attorney General providing protection. The protected  
2 person shall agree to all of the following:

3 (a) If a witness or potential witness, to testify in and  
4 provide information to all appropriate law enforcement  
5 officials concerning all appropriate proceedings.

6 (b) To refrain from committing any crime.

7 (c) To take all necessary steps to avoid detection by  
8 others of the facts concerning the protection provided to  
9 that person under this chapter.

10 (d) To comply with legal obligations and civil  
11 judgments against that person.

12 (e) To cooperate with all reasonable requests of  
13 officers and employees of this state who are providing  
14 protection under this chapter.

15 (f) To designate another person to act as agent for the  
16 service of process.

17 (g) To make a sworn statement of all outstanding legal  
18 obligations, including obligations concerning child  
19 custody and visitation.

20 (h) To disclose any probation or parole  
21 responsibilities, and if the person is on probation or  
22 parole.

23 (i) To regularly inform the appropriate program  
24 official of his or her activities and current address.

25 14006. Funds available to implement this chapter  
26 may be used for any of the following:

27 (a) To protect witnesses where credible evidence  
28 exists that they may be in danger of intimidation or  
29 retaliation because of their testimony.

30 (b) To provide temporary and permanent relocation  
31 of witnesses and provide for their transition and  
32 well-being into a safe and secure environment.

33 (c) To train and supervise persons associated with  
34 victim witness protection throughout the state.

35 (d) To pay the costs of administering the program.

36 14007. The Attorney General shall issue appropriate  
37 guidelines and may adopt regulations to implement this  
38 chapter.

39 14008. The State of California and its officers and  
40 employees shall have immunity from civil liability for any

1 decision declining protection to a witness under this  
2 section.

3 ~~14009. Any person who knowingly and willfully makes~~  
4 ~~an unauthorized disclosure of pertinent information~~  
5 ~~relating to a witness protected under this chapter,~~  
6 ~~including, but not limited to, disclosure of the new~~  
7 ~~identity of a witness, at any stage of the investigation or~~  
8 ~~thereafter, shall be punished by a fine not to exceed~~  
9 ~~twenty five thousand dollars (\$25,000), or by~~  
10 ~~imprisonment in the state prison for three, four, or five~~  
11 ~~years, or by both that fine and imprisonment.~~

12 ~~14010.—~~

13 ~~14009.~~ The Attorney General shall pursue all federal  
14 sources that may be available for implementing this  
15 program.

16 ~~14011.—~~

17 ~~14010.~~ Commencing one year from the effective date  
18 of this chapter, the Attorney General shall make an  
19 annual report to the Legislature no later than January 1  
20 on the fiscal and operational status of the program.

21 SEC. 2. The sum of one hundred forty-nine thousand  
22 dollars (\$149,000) is hereby appropriated from the  
23 General Fund to the Attorney General to implement the  
24 Witness Protection Program pursuant to this act.

25 ~~SEC. 3. No reimbursement is required by this act~~  
26 ~~pursuant to Section 6 of Article XIII B of the California~~  
27 ~~Constitution because the only costs that may be incurred~~  
28 ~~by a local agency or school district will be incurred~~  
29 ~~because this act creates a new crime or infraction,~~  
30 ~~eliminates a crime or infraction, or changes the penalty~~  
31 ~~for a crime or infraction, within the meaning of Section~~  
32 ~~17556 of the Government Code, or changes the definition~~  
33 ~~of a crime within the meaning of Section 6 of Article~~  
34 ~~XIII B of the California Constitution.~~

35 ~~Notwithstanding Section 17580 of the Government~~  
36 ~~Code, unless otherwise specified, the provisions of this act~~  
37 ~~shall become operative on the same date that the act~~  
38 ~~takes effect pursuant to the California Constitution.~~

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